REMARKS

In response to the final Office Action dated July 6, 2009, the Assignee respectfully requests continued examination and reconsideration based on the above amendments and on the following remarks.

Claims 48-53, 58-63, and 68-73 are pending in this application. Claims 54-57, 64-67, and 74-77 are canceled without prejudice or disclaimer. Claims 1-47 were previously canceled without prejudice or disclaimer.

Rejection of Claims under § 112, first paragraph

The Office rejected claims 48-53, 58-63, and 68-73 under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. Independent claims 48, 58, and 68, though, have been amended, so the Office is respectfully requested to re-examine these claims in their current presentation.

Rejection of Claims 48-51 & 53 under § 103 (a)

Claims 48-51 and 53 were rejected under 35 U.S.C. § 103 (a) as being obvious over U.S. Patent Application Publication 2002/0046099 to Frengut, *et al.* in view of U.S. Patent 6,282,655 to Given.

These claims, however, are not be obvious over *Frengut* and *Given*. These claims recite, or incorporate, features that are not taught or suggested by *Frengut* and *Given*. Independent claim 48, for example, recites "*when the presence detector determines that the user is in the vicinity of a television, sending a presence indicator signal from the presence detector to the computer*." Independent claim 48 also recites "*determining, by the computer, an action to be taken based on the presence indicator signal and a source of the presence indicator signal*" and "*sending the action to the television*." Support may be found at least at paragraph [0043] of the

as-filed application.

These features are not obvious over *Frengut* and *Given*. Both *Frengut* and *Given* have been thoroughly discussed in previous responses, so no further explanation is needed. Because the combined teaching of of *Frengut* with *Given* remains silent to at least these features, one of ordinary skill in the art would not think that the independent claims are obvious over *Frengut* and *Given*.

Claims 48-51 and 53, then, are not obvious over *Frengut* and *Given*. Independent claim 48 recites many features that are not taught or suggested by *Frengut* and *Given*. The dependent claims incorporate these features and recite additional features. These claims, then, are not obvious, so the Office is respectfully requested to remove the § 103 (a) rejection of these claims.

Rejection of Claim 52 under § 103 (a)

The Office rejected claim 52 under 35 U.S.C. § 103 (a) as being obvious over *Frengut* and *Given* in view of U.S. Patent 6,025,869 to Stas, *et al.*

Claim 52, though, cannot be obvious. Claim 52 depends from independent claim 48, so claim 52 incorporates the same distinguishing features. As the above paragraphs explained, *Frengut* and *Given* do not teach or suggest all the features of independent claim 48, and *Stas* does not cure these deficiencies. *Stas* describes a matrix that allows a supervisor (*e.g.*, a parent) to block/allow certain channels and times of use. Still, though, the combined teaching of *Frengut*, *Given*, and *Stas* fails to teach all the features of independent claim 48, so one of ordinary skill in the art would not think that claim 52 is obvious. The Office is thus respectfully requested to remove the § 103 (a) rejection of this claim.

Rejection of Claims 58-61, 63, 68-71 & 73 under § 103 (a)

The Office rejected claims 58-61, 63, 68-71, and 73 under 35 U.S.C. § 103 (a) as being obvious over *Frengut* and *Given* in view of U.S. Patent 6,842,877 to Robards, *et al.*

These claims, however, are not be obvious over *Frengut* with *Given* and *Robards*. These claims recite, or incorporate, features that are not taught or suggested by the combined teaching of *Frengut*, *Given*, and *Robards*. Independent claims 58 and 68, for example, recite similar features as independent claim 48. As the above paragraphs explained, *Frengut* and *Given* do not teach or suggest all the features of independent claims 58 and 68, and *Robards* does not cure these deficiencies. *Robards* discloses a computer that receives data inputs to determine a user's "context." U.S. Patent 6,842,877 to Robards, *et al.* at column 7, lines 57-60 and at column 10, lines 1-5. The input sensors may include temperature sensors, GPS receiver, microphone, heart rate/EKG sensor, motion sensor, and even RFID sensors. *See id.* at columns 7 through 9. All this information may be used to determine if a user is at their desk, or having a cardiac condition, or any other "theme." *Id.* at column 10, lines 38-41 and at column 14, lines 9-12. When a cardiac condition is detected, a cell phone may be activated to call for help. *See id.* at column 14, lines 58-63. *See also id.* at column 15, lines 1-41. Information may also be provided regarding emails, voice mails, calendar, contacts, and web pages. *See also id.* at column 15, lines 50-60. Still, though, the combined teaching of *Frengut*, *Given*, and *Robards* fails to teach all the features of independent claims 58 and 68, so one of ordinary skill in the art would not think that these claims are obvious.

Independent claims 58 and 68 recite even more distinguishing features. These claims, for example, recite "*updating the presence database to indicate the user is in the vicinity of the computer*" and "*communicating to the other user identifiers that the user is in the vicinity of the computer*." Support may be found at least at paragraph [0037] of the as-filed application.

These features are not obvious over *Frengut*, *Given*, and *Robards*. The Office asserts that *Frengut*, *Given*, and *Robards* teaches these features, and the Office specifically cites to portions of *Frengut*. The Office, though, has, very respectfully, misinterpreted *Frengut*. When *Frengut*

is properly interpreted, the combined teaching of *Frengut*, *Given*, and *Robards* makes no such teaching.

The Office, for example, cites to *Frengut's* paragraph [0031], which is reproduced below.

> [0031] A number of custom web sites may be grouped where the users have an association. For example, a family of three users may be grouped such that the three user web sites share a common home page. Users may be individual or grouped into a family, which may or may not reflect genuine familial ties. Referring to FIG. 3, a custom home page for a family 310 may contain some information (including features and services) that reflects interest common to all the family members, e.g. weather and special bulletins services. In addition the family custom home page contains links to individual user's custom home pages 320, 330, and 340, each one containing information reflecting the interests of the individual. The information for the family is maintained the same way as it is maintained for an individual. If the user chooses to edit its account information, the host displays the account page 126. From the account page, the user may update its own account or the family account. If the user chooses to edit the family data, the current family data is displayed in a format where the user may change the information and the system receives and stores the new information in the users database. If the user chooses to edit its individual data, the system displays the current data whereby the user may update the data. The system receives and stores the updated data. The data may be utilized to further customize the user's experience browsing the network. The other categories of information may be updated similarly.

Here *Frengut* discusses how users may be associated with a common home page. A "users database" stores "family data" that is used to construct a custom home page. Still, though, *Frengut's* paragraph [0031] fails to teach or suggest "*updating the presence database to indicate the user is in the vicinity of the computer*" and "*communicating to the other user identifiers that the user is in the vicinity of the computer*." Even though *Frengut's* "custom home page" may be associated with multiple users, nowhere does *Frengut* teach or suggest the claimed "*presence database*." Any other interpretation is unreasonable.

The Office also cites to *Frengut's* paragraph [0044], which is reproduced below.

> [0044] The statistical data relating to a user may be is made available to that user. Referring to FIG. 7, at step 716, the host retrieves from the statistics database the data necessary to compile the statistical information. At step 718, the host generates the user's statistics page and at step 720 the host displays the page including a menu of categories of statistics available. At step 722 the host receives the user's selection of category of statistics. The categories may include for example, information about the user, merchants, products, advertisers, and specials. For each category selected the host complies the information accordingly and generates and displays a web page showing the corresponding statistical data, reflected by steps 742-752. When the user is finished, at step 754, the user is returned to the custom home page at step 756. Depending on the agreement made with the advertiser and/or users, the statistics about the users and about the advertisers and ads may be secured allowing limited access and limited use after disclosure. The statistics preferably comprise one basis for generating revenue, as discussed below.

Here *Frengut* discusses a "statistical database" that stores "statistical data." *Frengut's* paragraph [0043] explains this "statistical data" as "the number of times a user referenced his or her favorite merchants page, the dollar amount of purchases made by a user, the number of times a particular ad was viewed, and other data concerning the actions and inactions of the user while interacting with the custom web site." *Frengut's* paragraph [0044] explains how this "statistical data" may be provided to the user as a web page. Again, though, *Frengut's* paragraph [0044] fails to teach or suggest "*updating the presence database to indicate the user is in the vicinity of the computer*" and "*communicating to the other user identifiers that the user is in the vicinity of the computer*." Any other interpretation is unreasonable.

Frengut, *Given*, and *Robards*, then, does not teach what the Office asserts. *Frengut's* cited paragraphs cannot reasonably be construed as teaching the claimed features. Indeed, *Frengut*, *Given*, and *Robards*, as a whole, fail to teach or suggest "*updating the presence database to indicate the user is in the vicinity of the computer*" and "*communicating to the other user identifiers that the user is in the vicinity of the computer*." One of ordinary skill in the art, then, would not think that the independent claims are obvious over *Frengut*, *Given*, and *Robards*.

Claims 58-61, 63, 68-71, and 73, then, are not obvious over *Frengut*, *Given*, and *Robards*. Independent claims 58 and 68 recite many features that are not taught or suggested by

Frengut, *Given*, and *Robards*. The dependent claims incorporate these features and recite additional features. These claims, then, are not obvious, so the Office is respectfully requested to remove the § 103 (a) rejection of these claims.

Rejection of Claims 62 & 72 under § 103 (a)

The Office rejected claims 62 and 72 under 35 U.S.C. § 103 (a) as being obvious over *Frengut* and *Given* in view of *Stas*.

These claims are not obvious. These claims depend, respectively, from independent claims 58 and 68. Because the combined teaching of *Frengut*, *Given*, and *Stas* fails to teach all the features of independent claims 58 and 68, so one of ordinary skill in the art would not think that claims 62 and 72 are obvious. The Office is thus respectfully requested to remove the § 103 (a) rejection of these claims.

If any questions arise, the Office is requested to contact the undersigned at (919) 469-2629 or *scott@scottzimmerman.com*.

Respectfully submitted,

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